

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RICHARD SNYDER and CATHERINE
SNYDER,

Plaintiffs,

v.

GREENBERG TRAURIG, LLP, et al.,

Defendants.

Civil No. 08-cv-1270 (GBL/TCB)

DEFENDANT’S MOTION TO DISMISS PLAINTIFFS’ COMPLAINT

Defendant Diane Von Furstenberg Studio, L.P. (“Von Furstenberg”), by counsel and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves to dismiss Plaintiffs’ First Amended Complaint. As more fully set forth in the accompanying memorandum of points and authorities:

1. Plaintiffs’ claims against Von Furstenberg should be dismissed because they are barred by the doctrines of claim preclusion and issue preclusion, having already been fully litigated in a previous case against Von Furstenberg based on plaintiff Catherine Snyder’s counterfeiting.
2. Count I for cancellation of trademark and damages for fraudulent registration against Von Furstenberg should be dismissed because plaintiffs lack standing to bring such a claim, pursuant to 15 U.S.C. §1064.
3. Counts III and VI (and to the extent it is plead against Von Furstenberg, Count II) against Von Furstenberg should be dismissed because the complaint, primarily

through the indiscriminate lumping of all defendants together into single allegations, fails to give Von Furstenberg fair notice of the claims against it and the grounds on which those claims rest, thereby falling well below the requirements of Rule 8(a)(2) of the Federal Rules of Civil Procedure.

Accordingly, defendant Diane Von Furstenberg Studio, L.P. respectfully requests that the Court dismiss plaintiffs' complaint with respect to Von Furstenberg.

Respectfully submitted,

Dated: April 22, 2009

/s/
Kevin B. Bedell (Va. Bar No. 30314)
bedellk@gtlaw.com
Greenberg Traurig, LLP
1750 Tysons Boulevard, Suite 1200
McLean, VA 22102
Tel: (703) 749-1339
Fax: (703) 714-8339

Counsel for Defendant
Diane Von Furstenberg Studio L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of April, 2009, I will electronically file the foregoing Memorandum of Points and Authorities in Support of Defendant's Motion to Dismiss Plaintiffs' Complaint with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Jonathan A. Nelson (Va. Bar No. 75247)
jnelson@cuccinelliday.com
Kenneth T. Cuccinelli, II (Va. Bar No. 39490)
ktc@cuccinelliday.com
Cuccinelli & Day, PLLC
10560 Main Street, Suite 218
Fairfax, VA 22030
Tel: (703) 268-5600
Fax: (703) 268-5602

/s/
Kevin B. Bedell (Va. Bar No. 30314)
bedellk@gtlaw.com
Greenberg Traurig, LLP
1750 Tysons Boulevard, Suite 1200
McLean, VA 22102
Tel: (703) 749-1339
Fax: (703) 714-8339

*Counsel for Defendant
Diane Von Furstenberg Studio L.P.*